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Secret Funding for C.I.A. Held Illegal by Law Study

By SEYMOUR M. HERSH

Special to The New York Times

WASHINGTON, Jan. 12—An analysis in the Yale Law Journal has concluded that the current procedures for Congressional financing of the Central Intelligence Agency cannot be justified by national security and therefore "are unconstitutional and should be replaced."

Under present procedures, members of the House and Senate approve a C.I.A. budget so secret that its total is not known and its various components are provided by transfer from other agencies. Much of the C.I.A. budget, which is estimated at $750-million, is believed to be hidden among the multibillion-dollar disbursements in the Pentagon budget.

The secret financing system has been under increasing criticism from Congress in recent years, but the article in the Yale Law Journal apparently provided the first published review of the issue since the C.I.A. was organized under the National Security Act of 1947.

[illegible] were these other developments today in connection with the C.I.A. spying controversy.

President Ford's "blue-ribbon" commission on the alleged spying was scheduled to open its deliberations tomorrow. David W. Belin, the former law-

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yer who is expected to be named its executive director, was quoted as saying he "will leave no stone unturned until I find the truth."

¶William E. Colby, Director of Central Intelligence, told Newsweek magazine that examples of C.I.A. wrongdoing were "few and far between." He also called for better legislation to protect "our secrets."

¶The Senate Appropriations Committee became the fourth Congressional group to announce hearings into the C.I.A.'s domestic activities. Senator John L. McClellan, Democrat of Arkansas, said that the subcommittee on intelligence had summoned Mr. Colby and his predecessor, Richard Helms, now Ambassador to Iran, to a closed hearing on [illegible] Mr. Colby is already scheduled to testify before the House intelligence subcommittee, the Senate Foreign Relations Committee and the Senate Armed Services Committee.

Constitution Quoted

The article in the January issue of the Yale Law Journal concluded that the current Congressional procedures for handling the C.I.A. Budget violated Article I, Section 9 of the Constitution that provides:

"No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

The Law Journal said, "Virtually all of the funds which the C.I.A. receives and expends are treated as confidential, as if they were for purposes which require secrecy—and the certificate of the director [of the C.I.A.] serves as a sufficient accounting for their expenditure."

Because of the stringent secrecy, said the article, which was prepared by a third-year student, Elliot E. Maxwell, "Neither Congress nor the public can determine whether the expenditures have been made in compliance with the C.I.A.'s enabling legislation, or with the Constitution, and whether they have been made without waste or corruption." It added:

"Neither Congress nor the public can weigh C.I.A. spending against that of other agencies, the C.I.A.'s internal ordering of priorities cannot be analyzed."

Because of this, the law journal article concluded, "The appropriations requirement and the reporting requirement [in the Constitution] are both violated, to the point where they are almost rendered meaningless."

Lack of Debate Cited

The article reviewed the Congressional debate at the time the C.I.A. was initially authorized and said that failure of the committees involved to provide detailed information on the legislation and the lack of floor debate about the requirements for regular accountings "create considerable uncertaintly whether Congress carefully analyzed the requirements of national security, the procedures necessary for the successful operation of the C.I.A., and the commands" of the Constitution.

The law journal noted that other intelligence units, such as the Defense Intelligence Agency, have been able to operate with secrecy although their specific budget components and their totals are known. "It is nearly impossible," the article said, "to conceive of any scenario in which open lump-sum appropriation to the C.I.A. and an accounting for the gross sum expended by the agency would substantially enhance any danger" to national security. It added:

"There are too many links in the long chain between a figure as large as the estimated $750-million the C.I.A. spent in 1973 and the particulars an enemy might want to know — the whereabouts of an agent, the details of tactics, even the board outlines of strategy."

Senate Bars Disclesure

Last year the Senate voted 55 to 33 against legislation offered by Senator William Proxmire, Democrat of Wisconsin, that would have required the C.I.A. to disclose its annual budget.

Similar legislation will be offered in both the House and Senate this session.

The Supreme Court by a 5-to 4 vote last year rejected a suit that called for disclosure of all C.I.A. expenditures. The Court did not rule on the constitutional issued involved, but said that the plaintiff lacked standing as a taxpayer to force publication.

Mr. R. Belin's published comments came in an interview with The Des Moines Register, his hometown newspaper. The 46-year-old lawyer, who served with the Warren Commission, which investigated President Kennedy's assassination, was quoted as saying that he had demanded a "first-rate, independent" staff.

"I've heard people say there is a gray area in this matter," Mr. Belin further was quoted as saying. "My own feeling is, if there is any doubt, that doubt is resolved against the agency."

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Ex-Agent Says C.I.A. Screened Oil Staff

Special to The New York Times

BRUSSELS, Jan. 12—A former agent of the Central Intelligence Agency said here today that the Creole Petroleum Corporation, a subsidiary of the Exxon Corporation, used the C.I.A. in 1960 to screen employes in Venezuela.

The former agent, Philip Agee, who has begun a campaign to expose C.I.A. activities, made his statement before the Russell Tribunal II, a seven-day assembly of mainly left-wing intellectuals investigating charges of repression in Latin America.

Mr. Agee, who worked for the C.I.A. from 1957 to 1969, mostly in Latin America, said he had been involved in the screening operations for Creole while working for the C.I.A. in Washington.

It was his job, he said, to check if prospective employes of the company had left-wing connections, in which case they would not be hired.

Mr. Agee said he "guessed" that the C.I.A. was still doing similar work for Creole. He said such screening was a general service the agency performed for large American-owned firms in Latin America.

Vice President Rockefeller, whose family owns a large number of shares in Exxon and who is a former director of Creole, was named earlier this month by President Ford to lead a panel to investigate charges of illegal C.I.A. spying on American citizens inside the United States.

Ten days ago a book by Mr. Agee, "Inside the Company: C.I.A. Diary," was published in Britain. The book recounts in detail his daily activities while he was a member of the intelligence organization.

The Russell tribunal—named after the late British pholosopher and pacifist, Bertrand Russell—also heard an appeal today from Isabella Allende, daughter of the late President of Chile, Salvador Allende-Gossens. Miss Allende asked for international aid in obtaining the release from a Chilean prison of Laura Allende, a sister of the President and a Socialist politician who was arrested last November by the Chilean police.

An earlier tribunal met in Stockholm in 1967 and heard allegations of American war crimes in Vietnam.

Exxon Cites Sabotage

James Marakis, a spokesman in New York for Exxon, said yesterday that he had reached officials of Creole in Caracas by telephone and that they had denied categorically having ever used the C.I.A. to investigate prospective employes or current employes.

Hugh Morrow, a spokesman for Vice President Rockefeller said after checking with Mr. Rockefeller yesterday that the Vice President had "never heard of any use of C.I.A. to check Creole employes."

Mr. Morrow said that Mr. Rockefeller had served as a director of Creole until 1958 when he resigned. That resignation took place when he became Governor.

Mr. Morrow added that the Vice President relinquished his stock in the company and had no connection with Creole now.